

# Notice of Allowability

## Application No.

09/802,644

## Examiner

Jon P Weber, Ph.D.

## Applicant(s)

LICHTMAN ET AL.

## Art Unit

1651

### -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 07 October 2003.
2. ☒ The allowed claim(s) is/are 46-99.
3. ☐ The drawings filed on \_\_\_\_\_ are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All   b) ☐ Some\*   c) ☐ None   of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
- \* Certified copies not received: \_\_\_\_\_.
5. ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
  - (a) ☐ The translation of the foreign language provisional application has been received.
6. ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application. **THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

7. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
8. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
  - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
    - 1) ☐ hereto or 2) ☐ to Paper No. \_\_\_\_\_.
  - (b) ☐ including changes required by the proposed drawing correction filed \_\_\_\_\_, which has been approved by the Examiner.
  - (c) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No. \_\_\_\_\_.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the margin according to 37 CFR 1.121(d).

9. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

## Attachment(s)

- |  |  |
|--|--|
| 1 <input type="checkbox"/> Notice of References Cited (PTO-892)  | 5 <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2 <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                    | 6 <input type="checkbox"/> Interview Summary (PTO-413), Paper No. _____.   |
| 3 <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No. _____  | 7 <input checked="" type="checkbox"/> Examiner's Amendment/Comment         |
| 4 <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit of Biological Material | 8 <input type="checkbox"/> Examiner's Statement of Reasons for Allowance   |
|  | 9 <input type="checkbox"/> Other _____.                                    |

Jon P Weber, Ph.D.  
Primary Examiner  
Art Unit: 1651

Art Unit: 1651

***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 07 October 2003 has been entered. Claims 46-97 been presented for examination.

***Examiner's Amendment***

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Timothy McBride on 18 December 2003.

The application has been amended as follows:

**IN THE CLAIMS:**

In claim 48, replace "46" with -- 47 --.

In claims 56-58, at line 1, replace "stained" with -- labeled --.

In claims 57-58, at line 1 replace "The method" with

-- A method of imaging a cell, wherein the cell is labeled by the method --.

In claim 58, at line 3, delete "to about thirty minutes".

Art Unit: 1651

Add new claim 98.

<sup>116</sup>  
~~98.~~ A method of imaging a cell, wherein the cell is labeled by the method of claim <sup>13</sup>~~56~~, wherein the labeled cell is a fixed cell and said cell is imaged within less than about thirty minutes of the coated particle being propelled at the cell.

In claim 64, at line 5, replace “a” with -- one or more --, and “dye” with -- dyes --.

In claim 66, at line 1, replace 65 with -- 64 --, and after “each” insert -- one or more --; and at line 2, replace “dye” with -- dyes --.

In claim 67, at line 1, replace “dye” with -- one or more dyes --.

In claim 68, replace “64” with -- 67 --.

In claim 71, at line 5, replace “particle” with -- of the plurality of particles--.

In claims 80-82, at line 1, replace “stained” with -- labeled --.

In claims 81-82, at line 1 replace “The method” with

-- A method of imaging cells, wherein the cells are labeled by the method --.

In claim 82, at line 3, delete “to about thirty minutes”.

Add new claim 99.

<sup>41</sup>  
~~99.~~ A method of imaging cells, wherein the cells are labeled by the method of claim <sup>38</sup>~~80~~, wherein the labeled cells are fixed cells and said cells are imaged within less than about thirty minutes of the coated particles being propelled at the cells.

Claims 46-99 are allowed.

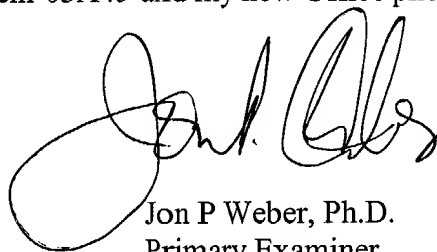
Art Unit: 1651

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jon P Weber, Ph.D. whose telephone number is 703-308-4015. The examiner can normally be reached on daily, off 1st Fri, 9/5/4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Wityshyn can be reached on 703-308-4743. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0196.

My new Office room number will be Rem-03A45 and my new Office phone number will be 571-272-0925 after 15 January 2004.

A handwritten signature in black ink, appearing to read 'Jon P. Weber', with a large, stylized loop at the end.

Jon P Weber, Ph.D.  
Primary Examiner  
Art Unit 1651

JPW  
18 December 2003